

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	CRIMINAL ACTION NO.
v.)	2:17cr387-MHT
)	(WO)
MARCUS ANTIONE HOPKINS,)	
JR.)	

OPINION AND ORDER

This cause is before the court on defendant Marcus Antione Hopkins, Jr.'s motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for April 16, 2018, should be continued pursuant to 18 U.S.C. § 3161(h)(7).

While the granting of a continuance is left to the sound discretion of the trial judge, *see United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy

days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance would "result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would deny counsel for the defendant ... reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Hopkins in a speedy trial. As stated in the motion to continue, counsel for

Hopkins was retained on March 30, 2018, two-three weeks before the current trial date. Defense counsel requests additional time to review the record in this case thoroughly, and to engage in any plea negotiations that may occur. Accordingly, a continuance is warranted to allow Hopkins' counsel the opportunity to prepare fully and effectively for trial.

The government does not oppose a continuance.

Accordingly, it is ORDERED as follows:

(1) The motion for continuance of defendant Marcus Antione Hopkins, Jr. (doc. no. 19) is granted.

(2) The jury selection and trial, now set for April 16, 2018, are reset for May 21, 2018, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 6th day of April, 2018.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE